

FILED

JAN 18 2011

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION

Clerk, U. S. District Court
Eastern District of Tennessee
At Knoxville

Mitchell Eads Pro-se Name

Prison Id. No. 243729

Name

Prison Id. No. _____

Plaintiff(s)

(List the names of all the plaintiffs
filing this lawsuit. Do not use "et
al." Attach additional sheets if
necessary.)

Civil Action No. 3:11-cv-29
(To be assigned by the Clerk's
office. Do not write in this space.)

Jury Trial ☒ Yes ☐ No

v.

Tennessee Department of Corrections

Commissioner Gayle Ray Name

Assistant Commissioner David Mills Name

Defendant(s)

(List the names of all defendants
against whom you are filing this
lawsuit. Do not use "et al." Attach
additional sheets if necessary.)

* See Attached Sheet

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
FILED PURSUANT TO 42 U.S.C. § 1983

I. PREVIOUS LAWSUITS (The following information must be provided by each plaintiff.)

A. Have you or any of the other plaintiffs in this lawsuit filed any other lawsuits in the United States District Court for the Middle District of Tennessee, or in any other federal or state court?

☒ Yes ☐ No

B. If you checked the box marked "Yes" above, provide the following information:

1. Parties to the previous lawsuit:

Plaintiffs

Myself / Mitchell Eads

Defendants

Claiborne County Sheriffs Department / Vance Anders - C.C.S.D.
New Tazewell Police Department / Wayne Melviner - N.T.P.D.

In The United States District Court For the
Eastern District of Tennessee At Knoxville

* Additional Defendants listing

Mitchell Eads #243729
Plaintiff

Civil Action No 3:11-CV-29

V.

"Additional Defendants"

Former Warden David Mills
Former Acting Warden Bobby Walls
Former Health Administrator Fa're Jeffers
Warden David Osborne
Former Acting Health Administrator Tommy Francis
Acting Health Administrator Ken Hutchinson
Doctor James Higgs
Doctor Frisbee "First Name Unknown At Present"
Former Nurse Patricia Wheeler
Nurse Vicki Mahoney
Nurse Practitioner Dale Hadden

* List of Defendants Will Be Revised Upon Discovery of Information In
Medical Records.

2. In what court did you file the previous lawsuit? United States District Court For Eastern District Of Tennessee At Knoxville
(If you filed the lawsuit in federal court, provide the name of the District. If you filed the lawsuit in state court, provide the name of the state and the county.)
3. What was the case number of the previous lawsuit? I Cannot Recall
4. What was the Judge's name to whom the case was assigned? Judge James Jarvis I Believe
5. When did you file the previous lawsuit? 1999 (Provide the year, if you do not know the exact date.)
6. What was the result of the previous lawsuit? For example, was the case dismissed, appealed, or still pending? Dismissed
7. When was the previous lawsuit decided by the court? 1999 (Provide the year, if you do not know the exact date.)
8. Did the circumstances of the prior lawsuit involve the same facts or circumstances that you are alleging in this lawsuit.
- ☐ Yes ☒ No
- (If you have filed more than one prior lawsuit, list the additional lawsuit(s) on a separate sheet of paper, and provide the same information for the additional lawsuit(s).)

II. THE PLAINTIFF'S CURRENT PLACE OF CONFINEMENT (The following information must be provided by each plaintiff.)

- A. What is the name and address of the prison or jail in which you are currently incarcerated? Morgan County Correctional Complex, P.O. Box 2000, Wartburg Tennessee 37887
- B. Are the facts of your lawsuit related to your present confinement?
- ☒ Yes ☐ No
- C. If you checked the box marked "No" in question II.B above, provide the name and address of the prison or jail to which the facts of this lawsuit pertain.
- _____
- D. Do the facts of your lawsuit relate to your confinement in a Tennessee State Prison?
- ☒ Yes ☐ No

If you checked the box marked "No," proceed to question II.H.

E. If you checked the box marked "Yes" in question II.D above, have you presented these facts to the prison authorities through the state grievance procedure?

☒ Yes ☐ No

F. If you checked the box marked "Yes" in question II.E above:

1. What steps did you take? I Filed 2 Grievances And Made Numerous Personal Requests For Help
2. What was the response of prison authorities? No Response Was Given At All So As To Effectively Deny Me Appellate Review Of Same

G. If you checked the box marked "No" in question II.E above, explain why not. _____

H. Do the facts of your lawsuit pertain to your confinement in a detention facility operated by city or county law enforcement agencies (for example, city or county jail, workhouse, etc.)?

☐ Yes ☒ No

I. If you checked the box marked "Yes" in question II.H above, have you presented these facts to the authorities who operate the detention facility?

☐ Yes ☐ No

J. If you checked the box marked "Yes" in question II.I above:

1. What steps did you take? _____
2. What was the response of the authorities who run the detention facility? _____

L. If you checked the box marked "No" in question II.I above, explain why not. _____

Attach copies of all grievance related materials including, at a minimum, a copy of the grievance you filed on each issue raised in this complaint, the prison's or jail's response to that grievance, and the result of any appeal you took from an initial denial of your grievance.

III. PARTIES TO THIS LAWSUIT

A. Plaintiff(s) bringing this lawsuit:

1. Name of the first plaintiff: Mitchell Eads
Prison Id. No. of the first plaintiff: 243729

Address of the first plaintiff: Morgan County Correctional Complex
PO Box 2000 Warburg TN. 37887

(Include the name of the institution and mailing address, including zip code.
If you change your address you must notify the Court immediately.)

2. Name of second the plaintiff: _____

Prison Id. No. of the second plaintiff: _____

Address of the second plaintiff: _____

(Include the name of the institution and mailing address, including zip code.
If you change your address you must notify the Court immediately.)

If there are more than two plaintiffs, list their names, prison identification numbers, and addresses on a separate sheet of paper.

B. Defendant(s) against whom this lawsuit is being brought:

1. Name of the first defendant: Gayle Ray, Commissioner T.D.C.C.

Place of employment of the first defendant: T.D.C.C. / Tennessee Department
Of Corrections

The first defendant's address: 6th Floor Rachel Jackson Bldg. 320 Sixth Avenue
North Nashville Tennessee 37243-0465

Named in official capacity? ☒ Yes ☐ No

Named in individual capacity? ☒ Yes ☐ No

2. Name of the second defendant: David Mills, Asst. Commissioner / Former Warden M.C.C.X.

Place of employment of the second defendant: Tennessee Department Of
Corrections

The second defendant's address: 6th Floor Rachel Jackson Bldg. 320 Sixth Avenue
North Nashville Tennessee 37243-0465

Named in official capacity? ☒ Yes ☐ No

Named in individual capacity? ☒ Yes ☐ No

If there are more than two defendants against whom you are bringing this lawsuit, you must list on a separate sheet of paper the name of each additional defendant, their place of employment, their address, and the capacity in which you are suing them. If you do not provide the names of such additional defendants, they will not be included in your lawsuit. If you do not provide their proper name, place of employment, and address, the Clerk will be unable to serve them should process issue.

3. Name of Third Defendant Bobby Walls / Former Acting Warden - Associate Warden

Place of Employment of Third Defendant Tennessee Department of Corrections Morgan County Correctional Complex

The Third Defendants Address M.C.C.X. Po Box 2000 Warburg Tennessee 37887

Named In Official Capacity? ☒ Yes ☐ No

Named In Individual Capacity? ☒ Yes ☐ No

4. Name of Fourth Defendant Faye Jeffers - Former Healthcare Administrator

Place of Employment of Fourth Defendant Tennessee Department of Corrections M.C.C.X.

The Fourth Defendants Address M.C.C.X. Po Box 2000 Warburg Tennessee 37887

Named In Official Capacity? ☒ Yes ☐ No

Named In Individual Capacity? ☒ Yes ☐ No

5. Name of Fifth Defendant David Osborne - Warden M.C.C.X.

Place of Employment of Fifth Defendant Tennessee Department of Corrections Morgan County Correctional Complex

The Fifth Defendants Address M.C.C.X. Po Box 2000 Warburg Tennessee 37887

Named In Official Capacity? ☒ Yes ☐ No

Named In Individual Capacity? ☒ Yes ☐ No

6. Name of Sixth Defendant Tommy Francis - Former Acting Health Administrator

Place of Employment of Sixth Defendant Tennessee Department of Corrections
Morgan County Correctional Complex

The Sixth Defendants Address M.C.C.X. P.O. Box 2000 Wartburg
Tennessee 37887

Named In Official Capacity? ☒ Yes ☐ No
Named In Individual Capacity? ☒ Yes ☐ No

7. Name of Seventh Defendant Ken Hutchison - Acting Health Administrator

Place of Employment of Seventh Defendant Tennessee Department of
Corrections, Morgan County Correctional Complex

The Seventh Defendants Address M.C.C.X. P.O. Box 2000 Wartburg
Tennessee 37887

Named In Official Capacity? ☒ Yes ☐ No
Named In Individual Capacity? ☒ Yes ☐ No

8. Name of Eighth Defendant James Higgs - Doctor M.C.C.X.

Place of Employment of Eighth Defendant Tennessee Department of
Corrections Morgan County Correctional Complex

The Eighth Defendants Address M.C.C.X. P.O. Box 2000 Wartburg
Tennessee 37887

Named In Official Capacity? ☒ Yes ☐ No
Named In Individual Capacity? ☒ Yes ☐ No

9. Name of Ninth Defendant DR. Frisbee - "First Name Unknown At time of filing"

Place of Employment of Ninth Defendant Tennessee Department of Corrections, Morgan County Correctional Complex

The Ninth Defendants Address MCCX Po Box 2000 Warburg Tennessee 37887

Named In Official Capacity? ☒ Yes ☐ No

Named In Individual Capacity? ☒ Yes ☐ No

10. Name of Tenth Defendant Patricia Wheeler - Former Nurse MCCX

Place of Employment of Tenth Defendant Tennessee Department of Corrections Morgan County Correctional Complex

The Tenth Defendants Address MCCX Po Box 2000 Warburg TN, 37887

Named In Official Capacity? ☒ Yes ☐ No

Named In Individual Capacity? ☒ Yes ☐ No

11. Name of Eleventh Defendant Vicky Mahoner - Nurse

Place of Employment of Eleventh Defendant Tennessee Department of Corrections Morgan County Correctional Complex

The Eleventh Defendants Address MCCX Po Box 2000 Warburg Tennessee 37887

Named In Official Capacity? ☒ Yes ☐ No

Named In Individual Capacity? ☒ Yes ☐ No

12. Name of twelveth Defendant Dale Hadden - Nurse Practitioner

Place of Employment of twelveth Defendant Tennessee Department of
Corrections Marion County Correctional Complex

The twelveth Defendants Address M.C.C.X. P.O. Box 2000 Warburg
Tennessee 37887

Named In Official Capacity? ☒ yes ☐ no
Named In Individual Capacity? ☒ yes ☐ no

IV. STATEMENT OF FACTS

State the relevant facts of your case as briefly as possible. Include the dates when the incidents or events occurred, where they occurred, and how each defendant was involved. Be sure to include the names of other persons involved and the dates and places of their involvement.

If you set forth more than one claim, number each claim separately and set forth each claim in a separate paragraph. Attach additional sheets, if necessary. Use 8 1/2 in. x 11 in. paper. Write on one side only, and leave a 1 in. margin on all four sides.

I Contracted the Highly Contagious Infectious Communicable Disease Known As Methicillin Resistant Staphylococcus Aureus At the Morgan County Correctional Complex In late 2008. I Was treated With An Antibiotic that Is Designed And Manufactured to treat Kidney And urinary tract Infections, "Bactrum", the Generic version Is "Sulfameth-Trimeth". The Infection Has Returned More than 15 times And I Have Been treated With the same Inadequate Medication Every time Despite My Numerous Verbal And Written Requests For Advanced treatment Options And Medications. The Inadequacy Of the Medicine And treatment Can Be Explained And Evidenced By the Multiple Infections. I Have Filed Grievances On this Issue And Made Written Requests For treatment that Is sufficient to Effectively Cure Me of this Easily Curable Condition But I Have Not Received A Response. In Addition to Requesting Adequate Medical Care And Filing Grievances On the Issue I Have Offered In Writing to Pay the Costs Upfront And In Full to Be M.R.S.A. Free, However Noone Will Respond to My Requests. I Have Requested A Copy of My Medical File But Noone Will Respond to Me. Without A Copy of My Medical Records I Cannot Name Every Person Involved And the Dates, Places And times of their Involvement. I Have Suffered Countless Sleepless Nights And Days Spent In Agonizing Pain Due to this Flesh Eating Bacteria And I Have the Visible And Gruesome Permanent Scars Upon My Body to Prove My Claim. The scars Are on My Nose, My Face, My Neck, My Chest, My Arm, My Buttocks, My Testicles And My legs. These Scars Are Permanent Injuries And Were Inflicted Unnecessarily upon Me As A Direct Result Of the Deliberate Indifference Of Medical Personell to My Immediate Need For Intravenous Antibiotics sufficient to Cure Me of this Disease. The Medical Personell Continue to Deny Me Adequate Care And As A Result I Have An Active M.R.S.A. Infection Now this 9th day of January 2011 that they Refuse to treat. Each Defendant Acted Under Color of state law In their Acts And Omissions.

V. RELIEF REQUESTED: Specify what relief you are requesting against each defendant.

- A. A Declaration that the Defendants Acts And Omissions Are An ongoing Violation of Mr Rights
- B. Preliminary Injunction / T.R.O. Ordering Defendants to Immediately Treat Infected Prisoners
- C. Compensatory Damages
- D. Punitive Damages
- E. Plaintiff's Costs In this Suit
- F. I request a jury trial. ☒ Yes ☐ No

VI. CERTIFICATION

I (we) certify under the penalty of perjury that the foregoing complaint is true to the best of my (our) information, knowledge and belief.

Signature: Mitchell Eads Date: 1/9/11

Prison Id. No. 243729

Address: P.O. Box 2000 Wartburg TN. 37887

(Include the city, state and zip code.)

Signature: _____ Date: _____

Prison Id. No. _____

Address: _____

(Include the city, state and zip code.)

ALL PLAINTIFFS MUST SIGN AND DATE THE COMPLAINT, and provide the information listed above. If there are more than two plaintiffs, attach a separate sheet of paper with their signatures, dates, prison identification numbers, and addresses.

ALL PLAINTIFFS MUST COMPLETE, SIGN, AND DATE SEPARATE APPLICATIONS TO PROCEED IN FORMA PAUPERIS, if not paying the civil filing fee.

SUBMIT THE COMPLAINT, THE REQUIRED FILING FEE, OR APPLICATION TO PROCEED IN FORMA PAUPERIS, TOGETHER. Complaints received without the required filing fee or application to proceed *in forma pauperis* will be returned. Filing fees, or applications to proceed *in forma pauperis*, received without a complaint will be returned.

AUTHORIZATION
(Prisoner's Account Only)

I, Mitchell Eads, request and authorize the agency
(Please print your name)

having custody of me to send to the Clerk of the United States District Court, Eastern District of Tennessee, a certified copy of the statement for the past six months of my trust fund account (or institutional equivalent) at the institution where I am incarcerated. I further request and authorize the agency having custody of me to calculate and disburse funds from my trust account (or institutional equivalent) in the amounts specified by 28 U.S.C. §1915(b). This authorization is furnished in connection with the commencement of a civil action or appeal. I understand that the total amount of the filing fees for which I am obligated is \$150.00 for a civil action or \$105.00 for an appeal. I also understand that these fees will be taken from my account regardless of the outcome of my civil action or appeal. This authorization shall apply to any other agency into whose custody I may be transferred.

Dated: January 9th, 2011.

Mitchell Eads

Signature of prisoner